

REMARKS

In the Office Action dated June 2, 2006, claims 1-6, 8-13, 43, and 45-48 were rejected under 35 U.S.C. § 103 over U.S. Patent No. 6,775,369 (McClung) in view of U.S. Patent No. 6,178,238 (Bozek); claims 37-40 were rejected under § 103 over U.S. Patent No. 6,798,767 (Alexander) in view of U.S. Patent No. 6,961,346 (Michalewicz); claim 7 was rejected under § 103 over McClung in view of Bozek and "Applicant's Admitted Prior Art" (AAPA); claim 14 was rejected under § 103 over McClung in view of Bozek and Alexander; claims 16-22 and 44 were rejected under § 103 over Alexander in view of AAPA; claims 23, 25-31, and 33-35 were rejected under § 103 over Alexander in view of AAPA and U.S. Patent No. 6,263,064 (O'Neal).

INDEPENDENT CLAIMS 1, 3

Independent claim 1 was rejected as being obvious over McClung and Bozek. It is respectfully submitted that a *prima facie* case of obviousness has not been established with respect to claim 1 over McClung and Bozek for at least the following reasons: (1) no motivation or suggestion existed to combine the references; and (2) the references when combined do not teach or suggest all elements of the claim. *See* M.P.E.P. § 2143 (8th ed., Rev. 3), at 2100-135.

The Office Action cited various passages of column 9 of McClung as disclosing the first four acts of claim 1. Column 9 of McClung describes a roaming feature that allows a user to temporarily designate one or more telephony devices, in addition to or instead of the user's regularly assigned telephony device, at which the user can receive incoming calls to a particular line number. McClung, 6:42-47.

Starting at line 26 of column 9 of McClung, a description is provided of a procedure in response to a call placed to a roaming line number. The procedure involves an originating telephony device 24d initiating a call to a target IP telephony device 24b (extension "1002"). The call manager 26 of McClung receives the call initiation request and determines, from a mapping table 110, which IP addresses are associated with the line number. McClung, 9:33-37. The call manager 26 then directs the call to telephony devices 24a and 24b (which are both associated with extension "1002"). McClung, 9:43-45. A user can take the telephony device(s) off-hook to connect the call. McClung, 9:55-56.

However, as correctly conceded by the Office Action, McClung does not disclose the last two acts recited in claim 1, including: receiving a second indication from the second terminal for initiating a call session with a third terminal; and in response to the second indication, accessing profile information associated with the first terminal to process the second indication for establishing the call session between the second terminal and the third terminal. 6/2/2006 Office Action at 6. Instead, the Office Action relied upon Bozek as disclosing the last two acts recited in claim 1. *Id.* However, Bozek describes a speed dial calling mechanism that allows a user to place calling card calls (that include speed dialing numbers) using a switch that is not the home switch of the user. Bozek, Abstract. As explained by Bozek, when a caller at a telephone station makes a calling card call, the caller is switched through an away switch to a calling card server switch, which receives dialing information (including a speed dialing number) from the telephone station. Bozek, 2:45-50. In response to the calling card call with the speed dialing

number, the calling card server switch accesses a calling card database. Bozek, 2:57-60. If the calling card database does not maintain a speed dialing list for calling cards, then the calling card server switch queries the home switch of the caller to obtain the caller's speed dialing list to enable the call to be completed with the speed dialing number. Bozek, 2:60-3:5. The accessing of a database or querying of a home switch of a user to obtain speed dialing information is completely different from the roaming feature described in McClung.

The Office Action stated that "it would have been obvious to a person of ordinary skill in the art to modify *Bozek* so the remote terminal to whom calls are forwarded uses the calling card procedure of *Bozek* for outgoing calls." 6/2/2006 Office Action at 6 (emphasis added). This statement does not make much sense as the Office Action is stating that Bozek provides the suggestion to modify itself. Applicant believes that the Office Action meant that it would have been obvious to modify *McClung* based on the calling card procedure of Bozek for outgoing calls.

The Office Action provided no explanation of how the roaming feature described in McClung could be modified based on the calling card, speed dialing mechanism of Bozek. Including the calling card, speed dialing mechanism of Bozek into the roaming mechanism described in McClung would completely change the principle of operation of McClung. What the Office Action appears to be suggesting is that the roaming feature of McClung be replaced with the calling card, speed dialing feature described in Bozek. As noted by the M.P.E.P., "[i]f the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references *are not sufficient* to render the claims *prima facie* obvious." M.P.E.P. § 2143.01, at 2100-138 (emphasis added).

What the Office Action has engaged in is arbitrary picking and choosing of elements in the cited references to piece together such elements in attempting to achieve the claimed subject matter. Significantly, in claim 1, the second indication is received from the second terminal that is a *clone* of the first terminal. In Bozek, the calling card call (containing a speed dialing number) is received from a terminal (telephone station 5) that is *not* a clone of some other terminal. Therefore, neither McClung nor Bozek (or their hypothetical combination) teaches or suggests each and every element of claim 1.

In view of the foregoing, it is respectfully submitted that a *prima facie* case of obviousness has not been established with respect to claim 1.

With respect to independent claim 3, the Office Action conceded that McClung does not disclose receiving a call request from the second terminal or accessing profile information of the first terminal in response to the call request (the last two acts recited in claim 3). 6/2/2006 Office Action at 3. However, the Office Action again relied upon Bozek as disclosing these last two elements recited in claim 3. It is respectfully submitted, as discussed above, that no motivation or suggestion existed to combine McClung and Bozek to achieve the claimed subject matter, and even if they can be combined, the hypothetical combination of McClung and Bozek does not teach or suggest all elements of claim 3.

INDEPENDENT CLAIM 37

Claim 37 was rejected as being obvious over Alexander and Michalewicz. With respect to claim 37, the Office Action conceded that Alexander does not disclose that its IP telephony device includes a plurality of soft client modules that become clones of respective terminals, as recited in claim 37. 6/2/2006 Office Action at 11. Instead, the Office Action relied upon Michalewicz as disclosing these soft client modules. *Id.* Specifically, the Office Action cited column 6, lines 33-37, of Michalewicz, which describes a call manager 26a that has software for implementing one or more virtual telephony devices. As explained by Michalewicz, the virtual telephony devices are logically inserted between two or more IP telephony devices to act as an intermediary between the telephony devices. Michalewicz, 6:38-40. Once the relationship is set up, signaling and media streams that pass through the virtual telephony device may be modified through address translation or data stream manipulation. Michalewicz, 6:40-44. As noted by Michalewicz, an implementation of a virtual telephony device is a bridge 28 (depicted in Fig. 1 of Michalewicz). Michalewicz, 6:35-37. There is absolutely no suggestion whatsoever in Michalewicz that its virtual telephony devices constitute the soft client modules that become clones of respective terminals, where each soft client module becomes a clone of a respective terminal by sending a request to a server on a network to select one of the terminals to clone.

In view of the foregoing, it is clear that the hypothetical combination of Alexander and Michalewicz does not teach or suggest all elements of claim 37. Therefore, a *prima facie* case of obviousness has also not been established with respect to claim 37.

INDEPENDENT CLAIM 16

Independent claim 16 was rejected as being obvious over Alexander and AAPA. The Office Action conceded that Alexander fails to disclose associating a first logical port between a telephony proxy server and a switch module with both the first and second terminals, and forwarding, by the switch module, the call request through the first logical port to the telephony proxy server. 6/2/2006 Office Action at 15. The Office Action cited AAPA as disclosing use of logical ports between a TPS and a switch. Although the Background section of the present application mentions that a logical port can be reserved in a switch for a telephony client, there is absolutely no suggestion in the Background section of the present application, or in Alexander, of associating a first logical port between a TPS and a switch module with *both* the first and second terminals. Moreover, there is no suggestion in the Background section of the present application of forwarding, by the switch module, the call request (which specifies the second terminal) through the first logical port to the telephony proxy server.

Alexander provides absolutely no hint whatsoever that it would even be desirable to incorporate a TPS and a switch module with a logical port provided therebetween. Moreover, there is no suggestion in either Alexander or the Background section of the present application of associating a logical port between a TPS and switch module with *both* the first and second terminals.

As purported support for the obviousness rejection, the Office Action made the comment that the “call manager [of Alexander] performs the exact same functionality as the article in the claim language; there are merely semantic differences in how this functionality is described.” 6/2/2006 Office Action at 3. Applicant is not merely reciting a function in claim 16 – there are specific elements of claim 16 that are clearly not disclosed or suggested by Alexander and AAPA. The Office Action has still failed to explain how Alexander and/or AAPA teaches or suggests the associating of a first logical port between a TPS and a switch module with *both* first and second terminals. There is clearly no suggestion (express or implied) whatsoever of this subject matter in either Alexander or AAPA.

Moreover, as purported motivation to combine the teachings of Alexander and AAPA, the Office Action stated that “it would have been obvious to a person of ordinary skill in the art to implement Alexander using a TPS and a switch instead of a single call manager.” 6/2/2006 Office Action at 15. As further stated by the Office Action, “since Alexander already disclosed

associating the two terminals, the logical port discussed in AAPA would be used as the means of indicating this association.” The motivation stated by the Office Action for doing this “would have been to implement the call manager [of Alexander] in a manner which more closely mirrors the circuit switched implementation.” *Id.*

What the Office Action has clearly engaged in is the use of impermissible hindsight to piece together completely unrelated elements of prior art references in an attempt to achieve the claimed invention. As clearly stated by case law, “[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.” *In re Fine*, 837 F.2d 1071, 1074, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). The rationale provided by the Office Action is that Alexander discloses A, and AAPA discloses B, and that therefore, it would be obvious to combine A and B. However, there absolutely existed no motivation in the references (whether implicit or explicit) of combining the teachings of Alexander and AAPA to achieve the claimed subject matter.

In view of the foregoing, it is clear that a *prima facie* case of obviousness has not been established with respect to claim 16.

INDEPENDENT CLAIM 23

Independent claim 23 was rejected as being obvious over Alexander, AAPA, and O'Neal. In view of the fact that there existed no motivation or suggestion to combine Alexander and AAPA, it is respectfully submitted that no motivation existed to combine the teachings of Alexander, AAPA, and O'Neal.

Moreover, the Office Action conceded that Alexander does not disclose storing a table associating identifiers of the first and second terminals with a first logical port. 6/2/2006 Office Action at 17. However, the Office Action relied upon AAPA as disclosing the use of a logical port. However, AAPA does not suggest storing a table associating identifiers of *both* first and second terminals with a first logical port. As noted above, based on the discussion above with respect to claim 16, it is respectfully submitted that no motivation or suggestion existed to combine the teachings of Alexander and AAPA, and thus the obviousness rejection over Alexander, AAPA, and O'Neal is also defective.

In addition, the Office Action conceded that Alexander and AAPA do not teach updating a table to indicate that one of the first and second terminals that answered the call requests is the terminal to which subsequent call requests containing the first logical identifier are to be directed. 6/2/2006 Office Action at 18. However, the Office Action cited O'Neal as teaching this element. Specifically, the Office Action pointed to column 12, lines 54-57, of O'Neal as teaching this recited element. The cited passage refers to the "follow me" service that uses the number where the subscriber was last located (stored in memory) as the first number to dial in the sequence. Note, however, that even O'Neal does not teach or suggest updating a *table* (that associates identifiers of first and second terminals with a first logical port) to indicate that one of the first and second terminals that answered the call request is the terminal to which subsequent call requests containing the first logical identifier are to be directed.

The Office Action further stated that Alexander discloses the use of an alternate device table, and thus, this alternate device table of Alexander would be used in the combination of Alexander, AAPA, and O'Neal. 6/2/2006 Office Action at 4. This type of rejection in which elements of prior art references are piece-meal combined without regard to any motivation or suggestion to make the proposed combination is a classic example of impermissible hindsight. *See In re Fine*, 837 F.2d at 1075.

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In view of the foregoing, it is respectfully submitted that a *prima facie* case of obviousness has not been established with respect to claim 23.

DEPENDENT CLAIMS

The dependent claims are allowable for at least the same reasons as corresponding independent claims. In view of the allowance of base claims, it is respectfully submitted that the obviousness rejection of the dependent claims has been overcome.

Allowance of all claims is respectfully requested. The Commissioner is authorized to charge any additional fees and/or credit any overpayment to Deposit Account No. 20-1504 (NRC.0008US).

Respectfully submitted,

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